IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4333 OF 2006
IN
CRIMINAL APPEAL NO. OF 2006

The State of Maharashtra ...Applicant/
Appellant

Vs.

Arjun Ananda Patole ...Respondent

Mr. Dr. F.R. Shaikh, Addl. P.P for Applicant
None for Respondent

CORAM: SMT. RANJANA DESAI &
SMT.ROSHAN DALVI, JJ.
DATED: 1ST AUGUST, 2007

P.C.

1. The State has filed this application for leave to appeal, being aggrieved by the Judgment and order dated 29th July, 2006 passed by the Additional Sessions Judge, Satara in Sessions Case No.92 of 2005. By the said Judgment and order the learned Sessions Judge acquitted the accused of the offence punishable under Sections 364 and 302 of the Indian Penal Code.

2. We have heard the learned A.P.P in support of the

Appeal. The learned A. P. P contended that the impugned order is perverse and it calls for interference of this Court. He submitted that the learned Sessions Judge ought to have placed reliance on the evidence of Shobha, the servant of the deceased who had witnessed the kidnapping of the deceased. He submitted that the body of the deceased was found on the same day in a lake. F.I.R is lodged on the same day and the accused was also arrested on the same day. The learned A. P. P urged that in the circumstances the guilt can be fastened on the accused.

3. We are unable to accept the submission of the learned A. P. P. An order of acquittal can be disturbed by this Court only if it is found to be perverse. If the view taken by the trial Court is reasonable, it cannot be disturbed. This Court cannot substitute its view in the place of trial Court's view, if the view taken by the trial Court is a reasonably possible view. In our opinion the impugned judgment and order cannot be termed as perverse. The prosecution case rests on the evidence of Shobha, the servant of the deceased who has stated that she saw the deceased being picked-up by the accused and taken away. The body of the deceased was found about 4 to 5 kms. away from the place from where she was picked-up. It is improbable that the accused would carry the deceased for a distance of about 4 to 5 Kms., and

nobody would notice him or the cries of the deceased would not attract anyone. Besides the Investigating Officer in his cross examination has stated that Shobha did not state in her police statement that she saw the incident of taking away of the deceased by the accused. This creates a doubt about the prosecution story, Shobha's seeing the deceased being carried away by the accused is the only strong evidence on which the prosecution rests. If this piece of evidence gives way, nothing survives in the prosecution story. Apart from Shobha's evidence, there is no other credible evidence which can link the accused to the crime in question. We, therefore, feel that the leave to appeal cannot be granted. The Application is, therefore, rejected.

(SMT. ROSHAN DALVI, J.) **(SMT. RANJANA DESAI, J)**